

Feb 07, 05 11:56p

W. Taylor

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FACSIMILE TRANSMITTAL SHEET

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| TO: | FROM: |
| Benjamin Layno, Art Unit 3712 | Bill Taylor |
| COMPANY: | DATE: |
| USPTO | 2/7/2005 |
| FAX NUMBER: | TOTAL NO. OF PAGES INCLUDING COVER: |
| 703 872 9306 | 10 |
| PHONE NUMBER: | SENDER'S REFERENCE NUMBER: |
| 703 308 1815 | |
| RE: | YOUR REFERENCE NUMBER: |
| Reply to office action | 10/045,250 |

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Dear Mr. Layno:

In my reply to your OA of 9/2004 (App. No. 10/045,250) that I just sent in by fax, I inadvertently left out the office action itself as promised.

So, I'm including it here and it will be in the package I mail tomorrow, as well.

Best regards,



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FEB 08 2005

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------|---------------------|------------------|
| 10/043,230 | 11/07/2004 | William Arthur Taylor | | 2119 |
| 1930 | 04/25/2004 | | | |
| WILLIAM ARTHUR TAYLOR 1326 ASPEN DRIVE EVERGREEN, CO 80439 | | | EXAMINER | |
| | | | LAVNO, BENJAMIN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3713 | |
| DATE MAILED: 08/25/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

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TECHNOLOGY CENTER R3700

| Office Action Summary | Application No. | Applicant(s) | |
|--|-------------------------------|------------------------|--|
| | 10/045,250 | TAYLOR, WILLIAM ARTHUR | |
| | Examiner Benjamin H. Leyno | Art Unit 3712 | |
| <p>- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -</p> <p>RECEIVED CENTRAL FAX CENTER</p> <p>FEB 08 2005</p> | | | |
| <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <p>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after 6(18) MONTHS from the mailing date of this communication.</p> <p>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</p> <p>If NO period for reply is specified above, the maximum statutory period will apply and will expire 6(18) MONTHS from the mailing date of this communication.</p> <p>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (See U.S.C. § 133).</p> <p>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p> | | | |
| <p>Status</p> <p>1)<input type="checkbox"/> Responsive to communication(s) filed on _____.</p> <p>2a)<input type="checkbox"/> This action is FINAL. 2b)<input checked="" type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p> | | | |
| <p>Disposition of Claims</p> <p>4)<input checked="" type="checkbox"/> Claim(s) 1-15 is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) 1-15 is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p> | | | |
| <p>Application Papers</p> <p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</p> <p>11)<input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</p> | | | |
| <p>Priority under 35 U.S.C. § 119</p> <p>12)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>e)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of: 1.<input type="checkbox"/> Certified copies of the priority documents have been received. 2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> | | | |
| <p>Attachment(s)</p> <p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 080804</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date _____</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____</p> | | | |

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DETAILED ACTION***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3-5, 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller.

The patent to Miller discloses a method of playing blackjack, using traditional playing cards, where at least one different winning player point score pays a different award, see table in column 5, lines 21-35. The table may be interpreted as:

| | Dealer Total | | <u>Payout</u> |
|---------------------|--------------|--|---------------|
| If the player beats | 17 | = (Beat the Dealer with point score of 18) | 2:1 |
| If the player beats | 18 | = (Beat the Dealer with point score of 19) | 3:1 |
| If the player beats | 19 | = (Beat the Dealer with point score of 20) | 5:1 |
| If the player beats | 20 | = (Beat the Dealer with point score of 21) | 11:1 |

Miller game may be played on an electronic gambling device, column 5, line 67 to column 6, line 3.

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In regard to claim 5, Miller recites that the conventional rules of Blackjack are followed, col. 3, line 66 to column 4, line 12, wherein a winning Blackjack pays 3 to 2. Blackjack by definition is a two-card hand of an Ace and a Ten value card forming a hard point total of 21. The winning point total of 21 shown in the table above inherently includes soft point totals, which has a different payback 11:1 than the hard point total of 21.

3. Claims 10 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Vancura.

The patent to Vancura discloses a method of playing blackjack, using traditional playing cards, comprising the steps of paying cash on areas 18, 20 for the right to play, and a player receiving a different award for the number of cards taken (hits) to make up the player's point score, see pay table in Fig. 3. The player may be paid for a losing (bust) hand, col. 5, lines 61-64.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vancura in view of Miller.

In view of Miller's teaching of electronic blackjack gambling devices above, it would have been obvious to provide an electronic gambling device version of Vancura's

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game. This modification would have made Vancura's game more attractive to players who are more comfortable playing electronic gambling devices.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: steps that a dealer and players must perform in order to carry out game play such as "each player placing a wager", "a dealer dealing two cards to each player, dealing two cards to the dealer", "allowing each player to take additional cards, as desired", etc. See the claims of Miller and Vancura.

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 2, 6, 10 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In regard to claims 2, 6, and 11. It is not clear from reading the specification how the expected value of the claimed game can exceed 100%. If claimed

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game has an expected value that exceeds 100%, then dealer (casino) is losing money for that game. The claimed game would not be profitable.

Furthermore, in claim 10 the claimed "achieving a pre-defined status in a player's club" is not recited in the specification.

Drawings

10. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "electronic gambling device", "traditional playing cards" and a flow chart illustrating the steps of the method of play, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will

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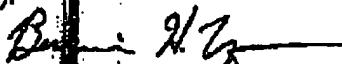
Page 6

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Banks can be reached on (703) 308-746. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno

Primary Examiner
Art Unit 3712

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| Notice of References Cited | | Application/Control No. 10/045,250 | Applicant(s)/Patent Under Reexamination TAYLOR, WILLIAM ARTHUR |
| | | Examiner Benjamin H. Layne | FEE Art Unit 3712 Page 1 of 1 |

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| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
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| A | US-6,450,800 B1 | 09-2002 | Miller, Alan S. | 273/292 |
| B | US-5,673,817 | 10-1997 | Vescom, Olaf | 273/292 |
| C | US- | | | |
| D | US- | | | |
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| F | US- | | | |
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NON-PATENT DOCUMENTS

Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)

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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.06(e).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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Notice of References Cited

Part of Paper No. 050904

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| | | | | WILLIAS ARTHUR TAYLOR | | | |
| | | | | FILING DATE | GROUP | | |
| | | | | NOVEMBER 07, 2001 | 3700 | | |
| U.S. PATENT DOCUMENTS | | | | | | | |
| *EXAMINER INITIAL | DOCUMENT NUMBER | DATE | NAME | CLASS | SUBCLASS | FILING DATE (if appropriate) | |
| BAC | AA 5,819,886 | 1997 | Lofink, et al. | 273/292 | 273/274 | 1996 | |
| BHC | AB 5,979,897 | 1999 | Grossman | 273 | 292 | 1998 | |
| BHL | AG 5,954,335 | 1999 | Moody | 273 | 292 | 1998 | |
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| EXAMINER | <i>Benjamin H. Y.</i> | | | DATE | CONSIDERED | <i>8/8/04</i> | |
| * EXAMINER: Initial if reference considered; whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. | | | | | | | |